

**THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MFB Fertility, Inc.,

Plaintiff,

v.

Action Care Mobile Veterinary Clinic, LLC,

Defendant.

Case No. 1:23-cv-03854

Dist. Judge Harry D. Leinenweber

Mag. Judge Gabriel A. Fuentes

**DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S COPYRIGHT INFRINGEMENT
CLAIM AND FOR ATTORNEYS’ FEES**

Defendant Action Care Mobile Veterinary Clinic, LLC (“Action Care” or “Defendant”) by its counsel, pursuant to Fed. R. Civ. P. 12(b)(6), moves to dismiss Plaintiff MFB Fertility, Inc.’s (“Plaintiff” or “MFB”) copyright infringement claim, which is contained in Plaintiff’s complaint (“Complaint”), for failure to state a claim upon which relief may be granted. Defendant also seeks an award of its attorneys’ fees and costs as the “prevailing party” under 17 U.S.C. § 505 and under governing Seventh Circuit and Supreme Court precedent.

In support of Plaintiff’s Motion, Plaintiff files herewith a Memorandum of Law, which also incorporates a further Declaration of Ilya G. Zlatkin, copies of the parties’ respective works, and an appendix containing isolated comparisons of the parties’ works in an effort to identify in good faith any potential similarities between the two works.

WHEREFORE, Plaintiff respectfully asks this Court to dismiss the copyright claim contained in the Complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted, with prejudice, and without further leave for Plaintiff to amend. Defendant further requests an award of its attorneys’ fees with respect to work relating to dismissal of the copyright infringement claim, to be documented as directed by the Court.

Dated: September 15, 2023

Respectfully submitted,

ZLATKIN CANN ENTERTAINMENT

By: /s/ Ilya G. Zlatkin

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